

Comments of
Owen E. Herrnsstadt, Director
International Affairs Department
International Association of Machinists and Aerospace Workers
Regarding
Proposed Revisions to the Export-Import Bank of the United States
Economic Impact Procedures

The International Association of Machinists and Aerospace Workers represents over 700,000 workers in North America in a variety of industries including aerospace, ship building and ship repair, electronics, woodworking, defense, and transportation. Many of these workers are employed in industries that are dependent upon exports. Indeed, IAM members produce, assemble, maintain, and service almost every imaginable product that is exported to other countries.

Given that the IAM represents so many workers whose jobs rely on exports, we take seriously Ex-Im's "mission to create U.S. jobs through exports."¹ If the Bank is truly serious about accomplishing its mission, it must develop and implement comprehensive and detailed procedures that do a much better job at measuring the number and kinds of jobs that its activities support in the short, medium and long-term. U.S. workers and other taxpayers should know if their money is going to support jobs at home or is being used to send jobs to other countries.

This effort will require a dramatic modification of current procedures. Unfortunately, despite repeated calls for significant restructuring of Ex-Im's economic impact procedures, the current procedures, as well as the proposed revisions, remain inadequate.

¹ "Ex-Im Programs – Overview," <http://www.exim.gov/mover.html>.

This is not the first time we have raised these concerns. Last year when the Bank issued proposed revisions we said, among other things, that the Bank should “use this opportunity to modify its economic impact analysis so that it will contain a full investigation of how each project (both proposed and already approved) assists and protects good jobs at home.” Unfortunately, our criticisms were not addressed when the Bank implemented its proposed revisions last Fall.

Consequently, our criticisms regarding the Bank’s procedures for determining economic impact remain. These criticisms include its exceedingly narrow coverage, ineffective notice and comment procedures, and inadequate and non-transparent analyses.

- - - - -

A. ONLY A LIMITED GROUP OF PROJECTS ARE SUBJECT TO REVIEW

The Bank relies on a series of hurdles to limit the transactions that are subject to full economic impact review. Our understanding is that it first screens out transactions for “goods,” limiting full review of economic impact to “transactions for capital equipment (i.e., manufacturing equipment) that establish or increase foreign production capacity of an exportable good”² If this initial “screen” is met, the Bank then applies further screens. If a transaction is for more than \$10 million in Ex-Im Bank financing or credit guarantees and Ex-Im Staff determines that the transaction poses “the risk of substantial injury,” i.e., “transactions that enable a foreign buyer to establish or increase foreign production by an amount that is equal to or greater than 1% of U.S. production of the same, similar or competing good,” the transaction then proceeds to the next level of analysis.³

There are a number of objections raised by this high threshold for analyzing transactions for their economic impact:

² Export-Import Bank of the United States, Memorandum Re: Economic Impact Procedures, September 17, 2001.

³ Ibid.

1. Omitting transactions of goods (as opposed to “transactions for manufacturing equipment that establish or increase foreign production capacity of an exportable good”) eliminates a significant portion of Ex-Im transactions for full review.

Does this actually mean that aid for sales of aircraft, which accounts for a significant proportion of Ex-Im’s annual budget, is not subject to full economic impact?⁴ Are these transactions subject to any meaningful economic impact analyses? If so, to what extent are they reviewed?

Apparently, these kinds of transactions are not even subjected to basic questions that would enable the Bank to determine if the transactions involve manufacturing equipment that is used to increase foreign production capacity. Specifically, the Bank’s failure to determine whether these transactions involve offsets or like transfers of jobs or equipment including technology to other countries prevents the Bank from even knowing if the transaction for “goods” has the potential of increasing foreign production capability “of an exportable good.” After all, other countries have relied on this transfer to develop their own industries which ultimately compete with U.S. industries. These transactions occur through the use of offsets which are increasing and are becoming more diverse. They are significant in the aerospace industry.⁵ Given that such a high portion of the Bank’s support goes towards transactions for “goods” and given the amount of offsets and offset like transactions in industries like aerospace, the Bank’s failure to even ask if a transaction involves the transfer of production and/or technology appears to be a major flaw in its economic impact procedures.

2. The high standard of \$10 million unduly restricts coverage for full impact analysis. How many projects does the Bank consider annually that involve less than \$10 million? For workers and their communities who lose their jobs because the Bank supports a transaction that involves the transfer of their work abroad, the

⁴ According to the New York Times, Boeing “last year received \$2.5 billion in loan guarantees.” See, *New York Times*, September 1, 2002.

⁵ See, Bureau of Export Administration Annual Reports on Offsets in the Defense Industry.

economic impact of such a transaction is significant and should at the very least be given meaningful analysis

3. The second prong of the Bank's test regarding risk of "substantial injury" -- that a transaction enables a foreign buyer to establish or increase foreign production by an amount that is equal to or greater than 1% of U.S. production -- is vague and depending on how it is calculated, could prove to be an overwhelming hurdle further limiting coverage. For example, presumably an industry as large as aerospace would require a multimillion dollar impact before questions regarding impact would be raised to "full" review.

The Bank's high threshold and multiple screens, combined with the Bank's failure to make necessary inquiries as to transfers of production and/or technology with respect to a transaction, makes it is easy to understand why a total of only four economic impact notices to date have been posted on the Bank's website.

B. NOTICE AND COMMENT ARE INADEQUATE

The Bank posts the limited number of projects for economic impact on its web site and in the Federal Register. The posting is brief, listing only general information regarding the project. Although the announcement is to contain information regarding "the amount of increased production as a result of the transaction,"⁶ questions remain concerning the Bank's failure to fully capture this information. Given the lack of information that is provided by the Bank, it is exceedingly difficult for an interested party to know if they will be affected by the transaction.

Moreover, accessibility to the posting presumes that interested parties are constantly searching Ex-Im's web site—a presumption that is unrealistic for most workers. The fact that Ex-Im only posted four projects since last Fall, would certainly

⁶ Export-Import Bank of the United States, Memorandum Re: Economic Impact Procedures, September 17, 2001.

discourage even the most diligent party from frequently checking the Bank's website for notices. Why bother to check the website or the Federal Register when postings are so rare?

Accessibility also assumes that an interested party who is able to gather enough information from the notice to prepare a response will have adequate time for responding to the notice. Consequently, even if a party makes it to the website, does so in a timely fashion, is able to understand the posting and can glean enough information from it, Ex-Im only gives interested parties 14 days to respond. This is hardly enough time for an interested party to file a serious response

C. EX-IM PROCEDURES FAIL TO GATHER ESSENTIAL INFORMATION FOR A COMPLETE ANALYSIS

Ex-Im fails to gather even the most basic information for making an accurate determination regarding economic impact. For example, in preparing its analysis, the Bank apparently does not ask companies who are applying for aid basic and fundamental questions regarding: 1) how many jobs will be created or supported by the transaction; 2) where those jobs are or will be; 3) how long those jobs will last; 4) what kind of jobs will be supported or created; 5) if the company currently has workers on layoff; and 6) if a transaction will result in recalling any workers from layoff.

In addition, as mentioned, Ex-Im's failure to ask questions at any stage of the process regarding whether a transaction involves the transfer of jobs and/or technology is a serious flaw in its analysis. For example, the New York Times reported that "[I]n the last two years, the bank has provided \$791.5 million in aid to help Boeing sell planes to Chinese airlines in deals that often require some parts of the planes to be built in China."⁷ Was the Bank aware that such transactions involved transfers of production? If not, why wasn't it? Failure to make this inquiry is a serious omission.

⁷ New York Times, September 1, 2002.

The Bank's failure to ask these basic questions is even more significant given the fact that over 500,000 U.S. jobs have been lost in the U.S. aerospace industry since 1989. A significant number of these jobs have been lost due to increasing foreign imports – foreign competition that has been, in part, fostered by the transfer of technology and production to other countries. Fears that more jobs will be lost in the industry continue.

The fact that the Bank makes no effective inquiry regarding whether a company is engaged in outsourcing or offsets or other kinds of transfers of production and/or technology in reviewing a program is extremely troublesome. The public, after all, has every right to demand that a public agency whose mission is, as the agency itself declares, “to create jobs through exports” is doing everything in its power to determine in precise, measurable terms if it is being effective. After all, U.S. taxpayers have every right to know if their money is going to support jobs at home or going to support jobs in other countries.

D. HUMAN RIGHTS – AN ESSENTIAL FACTOR

In legislation in June of this year, it was also deemed to be a “SENSE OF THE CONGRESS” that “when considering a proposal for assistance for a project the cost of which is \$10,000,000 or more, the management of the Export-Import Bank of the United States should have available for review a detailed assessment of the potential human rights impact of the proposed project.”

Human rights are economic issues as well as social issues and they should also be considered in any economic impact procedures. Does the Bank consider human rights issues when considering transactions? If so, how is this accomplished?

E. BANK'S PROCEDURES MUST ALSO BE REVISED TO COMPLY WITH NEW REQUIREMENTS

In its discussion paper, the Bank outlined several specific issues it was considering in response to recent requirements to its procedures. Our comments with respect to these proposals include:

1. The Bank should make clear that it will not provide loans to any producer of a product that is “substantially the same” as a product subject to an anti-dumping (AD) or countervailing duty (CVD) order. The Bank should also clarify that in determining the definition of “substantially the same product” it will not use the product descriptions from trade law cases. The Bank should take into account those products that are closely along the “product line” from the product subject to the action;
2. The Bank should also make clear that there is no dollar threshold in procedures that involve entities subject to a preliminary AD/CVD determination; and
3. The Bank should also clearly state that, in cases where there is a Section 201 investigation and a substantial injury test, it will take into account the public comment received during the notice and comment period, in addition to the 1% test in determining whether oversupply conditions exist.

- - - - -

Over 2,000,000 U.S. manufacturing jobs have been lost since 1998. Now more than ever, it is important that this Nation have an Export-Import Bank that fulfills its public mission to support U.S. jobs. In order for the Bank to be effective, however, it must undertake well-thought out and complete efforts for determining whether it is fulfilling its mission. U.S. taxpayers have a right to know with reasonable certainty if public-funded agencies like the Bank are fulfilling their mission. Without complete information, however, taxpayers won’t know the answer to this question. For U.S.

workers and their fellow taxpayers, this is a critical issue and one that demands immediate attention from the Bank.